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**From:** Calli, Rosemary [Calli.Rosemary@epa.gov]  
**Sent:** 11/2/2018 1:10:22 PM  
**To:** Hicks, Matt [Hicks.Matthew@epa.gov]; McGill, Thomas [Mcgill.Thomas@epa.gov]  
**Subject:** RE: Follow-ups on two Florida documents

Similarly, checking in. It's an hour later than Matt's message, but there still isn't any further email traffic on this. Signing off for now, but am available by phone if you hear anything about movement on this. If I get a chance late morning or this afternoon, I'll check back in for email updates.

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**From:** Hicks, Matt  
**Sent:** Friday, November 2, 2018 8:11 AM  
**To:** McGill, Thomas <Mcgill.Thomas@epa.gov>  
**Cc:** Calli, Rosemary <Calli.Rosemary@epa.gov>  
**Subject:** FW: Follow-ups on two Florida documents

Tom,

Here's an email I sent to Leif yesterday evening updating him on the status of the stakeholder Qs:

Leif,

Simma emailed David F this afternoon about the last remaining issue below. David responded to Simma with a follow-up question about whether

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but not sure Simma received their message before leaving for the day. Tomorrow is Simma's off-day so not sure when she will respond to David F. Tomorrow's my CDO but I'll check in in the morning to see whether there's been any movement. Rosemary is off as well so we probably won't get very far if there is more follow-up.

I checked in this morning and there hasn't been any movement. I'm logging off for the day but please call me on my cell at Ex. 6 Personal Privacy (PP) if there's anything I can do.

Thanks,

Matt

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**From:** Kupchan, Simma  
**Sent:** Thursday, November 1, 2018 4:04 PM  
**To:** Hicks, Matt <Hicks.Matthew@epa.gov>; Calli, Rosemary <Calli.Rosemary@epa.gov>  
**Subject:** FW: Follow-ups on two Florida documents

I'm sorry for the delay – I finally got this out! Will let you know as soon as I hear from David.

Simma Kupchan  
EPA Office of General Counsel  
Water Law Office  
WJC North Building # 7426Q  
202-564-3105

**From:** Kupchan, Simma  
**Sent:** Thursday, November 1, 2018 4:02 PM  
**To:** Fotouhi, David <[fotouhi.david@epa.gov](mailto:fotouhi.david@epa.gov)>  
**Cc:** Steven Neugeboren <[Neugeboren.Steven@epa.gov](mailto:Neugeboren.Steven@epa.gov)>; Carrie Wehling <[Wehling.Carrie@epa.gov](mailto:Wehling.Carrie@epa.gov)>  
**Subject:** Follow-ups on two Florida documents

David,

Thank you very much for your input on the proposed changes to FL's rules. R4 will incorporate all of your proposed edits, but just wanted to propose one alternative edit to the "material permit modification" paragraph, in response to a question you raised. Please see below.

**Stakeholder-proposed language:**

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**David asked:**

**Ex. 5 AC/DP**

**New proposed language:**

**Ex. 5 Deliberative Process (DP)**

# • Ex. 5 Deliberative Process (DP)

Could you please let us know if you are comfortable with R4's revised proposed approach, or if you have concerns about it? Thank you very much for your continued attention to this matter.

Simma Kupchan  
EPA Office of General Counsel  
Water Law Office  
WJC North Building # 7426Q  
202-564-3105

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**From:** Fotouhi, David  
**Sent:** Tuesday, October 30, 2018 7:30 PM  
**To:** Palmer, Leif <[Palmer.Leif@epa.gov](mailto:Palmer.Leif@epa.gov)>; Leopold, Matt (OGC) <[Leopold.Matt@epa.gov](mailto:Leopold.Matt@epa.gov)>  
**Cc:** Glenn, Trey <[Glenn.Trey@epa.gov](mailto:Glenn.Trey@epa.gov)>; Walker, Mary <[walker.mary@epa.gov](mailto:walker.mary@epa.gov)>; Ashbee, Blake <[ashbee.blake@epa.gov](mailto:ashbee.blake@epa.gov)>; Jenkins, Brandi <[Jenkins.Brandi@epa.gov](mailto:Jenkins.Brandi@epa.gov)>; Gettle, Jeaneanne <[Gettle.Jeaneanne@epa.gov](mailto:Gettle.Jeaneanne@epa.gov)>; Hicks, Matt <[Hicks.Matthew@epa.gov](mailto:Hicks.Matthew@epa.gov)>; Neugeboren, Steven <[Neugeboren.Steven@epa.gov](mailto:Neugeboren.Steven@epa.gov)>; Kupchan, Simma <[Kupchan.Simma@epa.gov](mailto:Kupchan.Simma@epa.gov)>; McGill, Thomas <[Mcgill.Thomas@epa.gov](mailto:Mcgill.Thomas@epa.gov)>; Zapata, Cesar <[Zapata.Cesar@epa.gov](mailto:Zapata.Cesar@epa.gov)>; Wade, Alexis <[Wade.Alexis@epa.gov](mailto:Wade.Alexis@epa.gov)>; Ghosh, Mita <[Ghosh.Mita@epa.gov](mailto:Ghosh.Mita@epa.gov)>  
**Subject:** RE: proposed responses to FDEP's assumption questions

My comments and suggestions are tracked in the attached document. Please let me know if you would like to discuss.

Best,

David

**David Fotouhi**

Principal Deputy General Counsel  
Office of General Counsel  
U.S. Environmental Protection Agency  
Tel: +1 202.564.1976  
[fotouhi.david@epa.gov](mailto:fotouhi.david@epa.gov)

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**From:** Palmer, Leif  
**Sent:** Thursday, October 25, 2018 7:02 PM  
**To:** Fotouhi, David <[Fotouhi.David@epa.gov](mailto:Fotouhi.David@epa.gov)>; Leopold, Matt (OGC) <[Leopold.Matt@epa.gov](mailto:Leopold.Matt@epa.gov)>  
**Cc:** Glenn, Trey <[Glenn.Trey@epa.gov](mailto:Glenn.Trey@epa.gov)>; Walker, Mary <[walker.mary@epa.gov](mailto:walker.mary@epa.gov)>; Ashbee, Blake <[ashbee.blake@epa.gov](mailto:ashbee.blake@epa.gov)>; Jenkins, Brandi <[Jenkins.Brandi@epa.gov](mailto:Jenkins.Brandi@epa.gov)>; Gettle, Jeaneanne <[Gettle.Jeaneanne@epa.gov](mailto:Gettle.Jeaneanne@epa.gov)>; Hicks, Matt <[Hicks.Matthew@epa.gov](mailto:Hicks.Matthew@epa.gov)>; Neugeboren, Steven <[Neugeboren.Steven@epa.gov](mailto:Neugeboren.Steven@epa.gov)>; Kupchan, Simma <[Kupchan.Simma@epa.gov](mailto:Kupchan.Simma@epa.gov)>; McGill, Thomas <[Mcgill.Thomas@epa.gov](mailto:Mcgill.Thomas@epa.gov)>; Zapata, Cesar <[Zapata.Cesar@epa.gov](mailto:Zapata.Cesar@epa.gov)>; Wade, Alexis <[Wade.Alexis@epa.gov](mailto:Wade.Alexis@epa.gov)>; Ghosh, Mita <[Ghosh.Mita@epa.gov](mailto:Ghosh.Mita@epa.gov)>  
**Subject:** FW: proposed responses to FDEP's assumption questions  
**Importance:** High

Matt & David – as mentioned on today's OGC call we've worked out responses to FDEP's latest questions. Trey asked me to forward this to you for your thoughts.

Matt Hicks' email below provides context.

Leif Palmer  
Regional Counsel  
US EPA Region 4  
61 Forsyth Street SW  
Atlanta, Georgia 30303  
(404) 562-9542

Ex. 6 Personal Privacy (PP) (cell)

This email is from an attorney and may contain privileged information and attorney-client communications and should not be released under FOIA or discovery to individuals or entities outside of EPA or the U.S. Department of Justice without the knowledge of the sender.

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**From:** Hicks, Matt  
**Sent:** Tuesday, October 23, 2018 5:51 PM  
**To:** Palmer, Leif <Palmer.Leif@epa.gov>  
**Cc:** Ghosh, Mita <Ghosh.Mita@epa.gov>  
**Subject:** FW: proposed responses to FDEP's assumption questions  
**Importance:** High

Leif,

Here's EPA's proposed response to the two recent questions we received from DEP on Friday. These proposed responses were generated by the Region 4 team (Tom McGill level) after consulting with Simma (both issues) and Alexis (mitigation issue only) at OGC. DEP is waiting to hear from us before moving forward with their rulemaking so time is of the essence. More internal discussion is needed on the issue of incorporating retained waters list into EPA's Federal Register notice approving the state's program but that issue is not as time critical as the two below.

**Ex. 5 AC/DP**

Please call me if you'd like to discuss further.

Thanks,

Matt

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**From:** McGill, Thomas

**Sent:** Tuesday, October 23, 2018 5:10 PM

**To:** Zapata, Cesar <Zapata.Cesar@epa.gov>

**Cc:** Calli, Rosemary <Calli.Rosemary@epa.gov>; Purify, Johnnie <Purify.Johnnie@epa.gov>; Hicks, Matt <Hicks.Matthew@epa.gov>; Ghosh, Mita <Ghosh.Mita@epa.gov>; Kupchan, Simma <Kupchan.Simma@epa.gov>; Hurlid, Kathy <Hurlid.Kathy@epa.gov>; Allenbach, Becky <Allenbach.Becky@epa.gov>; Nagrani, Kavita <Nagrani.Kavita@epa.gov>; Laycock, Kelly <Laycock.Kelly@epa.gov>; Parker, Christopher <Parker.Christopher@epa.gov>

**Subject:** proposed responses to FDEP's assumption questions

**Importance:** High

Cesar,

As a follow-up to our conversation yesterday, FDEP would appreciate EPA's quick feedback on questions they asked during calls held with some of EPA's assumption team members on Oct 19 and 22<sup>nd</sup>. You'll recall that I forwarded you an email from Matt Hicks on Oct 19 regarding their basic questions, and we received additional clarification with FDEP staff in a call held on Oct 22. We understand that FDEP is awaiting EPA's feedback prior to proceeding with their Notice of Proposed Rulemaking and that FDEP would prefer EPA's feedback through a conversation instead of in writing.

Attached is a document drafted by the EPA Assumption Team that includes: (1) FDEP's questions (highlighted in blue text); (2) proposed EPA responses (highlighted in yellow text); and (3) other information to provide background/context for FDEP's questions and/or the proposed responses. We would appreciate feedback from the RA and the senior leaders at OGC/OW as quickly as they can provide it before responding to FDEP.

If you have any questions or need any additional information please let us know.

Thanks.

Tom